

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KANDUS DAKUS, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

KONINKLIJKE LUCHTVAART
MAATSCHAPPIJ, N.V.,

Defendant.

Civil Action No. 1:22-cv-07962-RA

**DECLARATION OF KEARA M. GORDON IN SUPPORT OF DEFENDANT'S
MOTION TO DISMISS THE FIRST AMENDED COMPLAINT**

I, KEARA M. GORDON, declare pursuant to 28 U.S.C. § 1746:

1. I am a member of the bar of the State of New York and am admitted to the bar of this Court. I am a partner with the law firm of DLA Piper LLP (US), attorneys for Defendant Koninklijke Luchtvaart Maatschappij, N.V. (“KLM”).

2. This declaration, together with the annexed exhibits, is being submitted in support of KLM’s Motion to Dismiss the First Amended Complaint.

3. Attached hereto as **Exhibit 1** is a true and correct copy of the Declaration of Eric Caron, Senior Vice President North America of KLM, in support of KLM’s Motion to Dismiss the First Amended Complaint.

4. Attached hereto as **Exhibit 2** is a true and correct copy of American Council for International Studies, Inc.’s (“ACIS”) webpage “Keeping You and Your Students Safe,” last accessed on January 19, 2023, and publicly available at <https://acis.com/teachers/safety/>.

5. Attached hereto as **Exhibit 3** is a true and correct copy of the ACIS Terms and Conditions effective December 4, 2020, last accessed January 19, 2023, and publicly available at <https://acis.com/wp-content/uploads/2021/05/ACIS-International-Terms-Conditions-Release.pdf>.

6. Attached hereto as **Exhibit 4** is a true and correct copy of the Plaintiff's GoFundMe.com webpage, titled "Kindergarten Teacher Bucket List Trip," created May 3, 2022, last accessed on January 19, 2023, and publicly available at https://www.gofundme.com/f/kindergarten-teacher-bucket-list-trip?utm_campaign=p_lico+share-sheet&utm_medium=copy_link&utm_source=customer.

7. Attached hereto as **Exhibit 5** is a true and correct copy of KLM's General Conditions of Carriage, dated October 15, 2021, last accessed January 19, 2023, and publicly available at <https://web.archive.org/web/20211206212534/https://img.static-kl.com/m/1e22f26ffcab499c/original/EN-General-Conditions-of-Carriage.pdf>.

8. Attached hereto as **Exhibit 5a** is a true and correct copy of KLM's General Conditions of Carriage, dated September 29, 2022, last accessed January 19, 2023, and publicly available at <https://www.klm.com/information/legal/conditions-carriage>. There are no relevant substantive changes between the earlier version of KLM's General Conditions of Carriage, Exhibit 5, and the current version, Exhibit 5a.

9. Attached hereto as **Exhibit 6** is a true and correct copy of KLM's archived webpage "Reforestation," archived May 12, 2022, which KLM believes reflects that webpage at the time of the purchase of the Plaintiff's flight, last accessed January 19, 2023, and publicly available at

<https://web.archive.org/web/20220512192438/https://www.klm.nl/en/information/sustainability/compensate-co2-emissions>.

10. Attached hereto as **Exhibit 6a** is a true and correct copy of KLM's webpage "Reforestation" as it currently appears, last accessed January 19, 2023, and publicly available at <https://www.klm.com/information/sustainability/compensate-co2-emissions>.

11. Attached hereto as **Exhibit 7** is a true and correct copy of KLM's webpage "FAQ | KLM and sustainability," dated December 22, 2021, which KLM believes reflects that webpage at the time of the purchase of the Plaintiff's flight, last accessed January 19, 2023, and publicly available at https://flyresponsibly.klm.com/assets/data/Fly_Responsibly_EN.pdf.

12. Attached hereto as **Exhibit 8** are true and correct copies of screenshots from KLM's archived webpage, "What we do," archived June 6, 2022, which KLM believes reflects that webpage at the time of the purchase of the Plaintiff's flight, and last accessed January 19, 2023. The full archived webpage is publicly available at https://web.archive.org/web/20220606191620/https://flyresponsibly.klm.com/gb_en#https://flyresponsibly.klm.com/#keypoints?article=WhatYoudo.

13. Attached hereto as **Exhibit 8a** are true and correct copies of screenshots of KLM's webpage, "What we do" as it currently appears, last accessed on January 19, 2023. The full current webpage is publicly available at https://flyresponsibly.klm.com/gb_en#keypoints?article=whatWeDo.

14. Attached hereto as **Exhibit 9** is a true and correct copy of KLM's Climate Action Plan dated April 13, 2022, which KLM believes reflects that webpage at the time of the purchase

of the Plaintiff's fight, last accessed on January 19, 2023, and publicly available at https://materials.klm.com/landingpage/Klimaatplan_KLM_120422.pdf.

15. Attached hereto as **Exhibit 10** is a true and correct copy of a screenshot from KLM's archived webpage, "Climate policy," archived June 6, 2022, which KLM believes reflects that webpage at the time of the purchase of the Plaintiff's fight, and last accessed on January 19, 2023. The full archived webpage is publicly available at https://web.archive.org/web/20220606191620/https://flyresponsibly.klm.com/gb_en#detail?id=1&category=whattheindustrycando&anchor=block1.

16. Attached hereto as **Exhibit 11** is a true and correct copy of KLM's press release "KLM Group's CO2 emission reduction targets for 2030 approved by SBTi" published on December 16, 2022, last accessed on January 19, 2023, and publicly available at <https://news.klm.com/klm-groups-co2-emission-reduction-targets-for-2030-approved-by-sbti/>.

17. Attached hereto as **Exhibit 12** are true and correct copies of screenshots of KLM's archived webpage "What you can do," archived on June 6, 2022, which KLM believes reflects that webpage at the time of the purchase of the Plaintiff's fight, and last accessed on January 19, 2023. The full archived webpage is publicly available at https://web.archive.org/web/20220606191620/https://flyresponsibly.klm.com/gb_en#keypoints?article=WhatYoudo.

18. Attached hereto as **Exhibit 12a** are true and correct copies of screenshot of KLM's webpage "What you can do" as it currently appears, last accessed on January 19, 2023. The full current webpage is publicly available at https://flyresponsibly.klm.com/gb_en#keypoints?article=WhatYoudo.

19. Attached hereto as **Exhibit 13** is a true and correct copy of the Superior Court of the District of Columbia's November 10, 2022 order granting defendant's motion to dismiss in *Earth Island Institute v. The Coca-Cola Co.*, No. 2021 CA 001846 B (Sup. Ct. D.C. Nov. 10, 2022).

Dated: January 23, 2023
New York, New York

/s/ Keara M. Gordon
Keara M. Gordon